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MINISTRY OF LAW

New Delhi, the 9th October 1954

The following Acts of Parliament received the assent of the President on the 8th October, 1954 and are hereby published for general information:—

THE TAXATION LAWS (EXTENSION TO JAMMU AND KASHMIR) ACT, 1954 .

No. 41 OF 1954

[8th October, 1954]

An Act to provide for the extension of certain taxation laws to the State of Jammu and Kashmir and for matters connected therewith.

BE it enacted by Parliament in the Fifth Year of the Republic of India as follows:—

1. Short title.—This Act may be called the Taxation Laws (Extension to Jammu and Kashmir) Act, 1954.

2. Extension of certain taxation laws to Jammu and Kashmir.—

(1) The following Acts, namely:—

- (a) the Sea Customs Act, 1878 (VIII of 1878),
- (b) the Indian Income-tax Act, 1922 (XI of 1922),
- (c) the Land Customs Act, 1924 (XIX of 1924),
- (d) the Government Trading Taxation Act, 1926 (III of 1926),
- (e) the Indian Tariff Act, 1934 (XXXII of 1934),
- (f) the Central Excises and Salt Act, 1944 (I of 1944),
- (g) the Payment of Taxes (Transfer of Property) Act, 1949 (XXII of 1949), and
- (h) the Estate Duty Act, 1953 (34 of 1953),

and all rules and orders made thereunder which are in force immediately before the commencement of this Act are hereby extended to, and shall be in force in, the State of Jammu and Kashmir.

(2) With effect from the commencement of this Act, the Acts mentioned in the Schedule shall be amended as specified in column 4 thereof.

(3) The Finance Act, 1951 (XXIII of 1951) and the First Schedule thereto, in so far as they have been made applicable in relation to income-tax and super-tax for the financial year 1954-55 by the Finance Act, 1954 (17 of 1954), shall have effect as if the words "excluding the State of Jammu and Kashmir" and the word, brackets, figure and letter "or (3E)" had been omitted from Parts I and II of the First Schedule to the Finance Act, 1951.

(4) Sections 6 and 10 of the Finance Act, 1954 (17 of 1954), which impose certain additional duties of customs and excise respectively shall apply to, and have effect in, the State of Jammu and Kashmir as they apply to, and have effect in, the rest of India.

3. Continuance of existing duty on motor spirit for a certain period.—The Government of the State of Jammu and Kashmir may continue to levy and collect for a period of ten years from the 14th day of May, 1954, a duty at the rate of four annas per imperial gallon, or at such other lower rate per imperial gallon as the State Government may, by notification in the Official Gazette, specify in this behalf, on all motor spirit imported into the State otherwise than in petrol tanks by a supplier in the State or by an authorised agent on his behalf.

4. Construction of references to laws not in force in Jammu and Kashmir.—Any reference in any Act mentioned in section 2 to a law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding law, if any, in force in that State.

5. Repeals.—Save as otherwise provided in section 6, the following laws are hereby repealed, namely:—

- (a) the Matches (Excise Duty) Act, Svt. 1992 (IV of Svt. 1992),
- (b) the Mechanical Lighters (Excise Duty) Act, Svt. 1992 (V of Svt. 1992),
- (c) the Sugar (Excise Duty) Act, Svt. 2000 (VI of Svt. 2000),
- (d) the Tobacco (Excise Duty) Ordinance, Svt. 2001 (V of Svt. 2001),

- (e) the Income-tax Act, Svt. 2007 (X of Svt. 2007), and
- (f) the Jammu and Kashmir Customs Act, Svt. 1958, with the exception of the following provisions, namely:—

(i) section 25 in so far as it authorises the State Government to prohibit the importation or exportation of newspapers or books as defined in the Jammu and Kashmir State Press and Publications Act of Svt. 1989,

(ii) sections 25A, 25B and 25C, and

(iii) any other provision contained in the said Act which may be necessary or relevant for the purpose of carrying into effect the provisions contained in the sections referred to in sub-clauses (i) and (ii).

6. Savings.—(1) Notwithstanding the repeal by section 5 of any of the laws referred to therein—

- (a) the Jammu and Kashmir Customs Act, Svt. 1958, shall continue to have effect for the purposes of the levy, assessment, collection or refund of the duty on motor spirit referred to in section 3, or the levy, assessment and collection of any duty due in respect of the import or export before the 14th day of May, 1954, of any article into or from the State of Jammu and Kashmir,

or for the purpose of imposing any penalty or for any other purpose whatsoever connected with or incidental to any of the purposes aforesaid;

(b) the Income-tax Act, Svt. 2007 (X of Svt. 2007), shall continue to have effect for the purposes of the levy, assessment and collection of income-tax and super-tax or for the purposes of any penalty, interest, composition-fee or any other demand under that Act in respect of any period prior to the previous year for the purposes of assessment under the Indian Income-tax Act, 1922 (XI of 1922), for the year ending on the 31st day of March, 1955.

(2) Without prejudice to the provisions contained in sub-section (1) and subject thereto, section 6 of the General Clauses Act, 1897 (X of 1897), shall apply in relation to the repeal of any of the laws referred to in section 5 as if the law so repealed had been an enactment within the meaning of section 6 of that Act.

7. Construction of references in any repealed law to officers, authorities, etc.—Any reference in any law of the State of Jammu and Kashmir now repealed by this Act to an officer, authority, tribunal or court shall, for the purpose of carrying into effect the provisions contained in clause (b) of sub-section (1) and sub-section (2) of section 6, be construed as a reference to the corresponding officer, authority, tribunal or court appointed or constituted by or under the corresponding Act, rule or order now extended to the State, and if any question arises as to who such corresponding officer, authority, tribunal or court is, the decision of the Central Government thereon shall be final.

8. Removal of difficulties.—If any difficulty arises in giving effect to any of the provisions of any of the Acts, rules or orders now extended to the State of Jammu and Kashmir, the Central Government may, by order published in the Official Gazette, make such provision or give such direction as appears to it to be necessary for removing the difficulty.

THE SCHEDULE [See section 2(2)]

Year 1	No. 2	Short title 3	Amendments 4
1878	VIII	The Sea Customs Act, 1878.	In section 1, omit "except the State of Jammu and Kashmir". In section 3, omit clause (ee).
1922	XI	The Indian Income-tax Act, 1922.	In section 1, for sub-section (2), substitute— “(2) It extends to the whole of India.” In section 2, for clause (7A), substitute— “(7A) ‘Indian company’ means a company as defined in the Indian Companies Act, 1913 (VII of 1913), and includes a company formed and registered under any law in force in the merged territories or in any Part B State other than the State of Jammu and Kashmir before the extension thereto of the Indian Companies Act, 1913, and

Year	No.	Short title	Amendments
1	2	3	4
			<p>in the case of the State of Jammu and Kashmir, any company formed and registered under any law in force in that State; provided that the registered office of the company in all cases is in the taxable territories”.</p> <p>In clause (8), after the words “Central Government”, insert “or in the State of Jammu and Kashmir, the State Government”.</p> <p>In clause (14A),—</p> <p>(a) in sub-clause (d), omit the word “and” at the end;</p> <p>(b) after sub-clause (e), insert—</p> <p>“(f) as respects any period after the 12th day of April, 1954, the whole of the territory of India”;</p> <p>(c) after clause (b) of the proviso, insert—</p> <p>“(a) the whole of the territory of India—</p> <p>(i) as respects any period, for the purposes of sections 4A and 4B;</p> <p>(ii) as respects any period after the 31st day of March, 1954, for any of the purposes of this Act; and</p> <p>(iii) as respects any period included in the previous year for the purpose of making any assessment for the year ending on the 31st day of March, 1955, or for any subsequent year.”</p> <p>In section 4, in <i>Explanation</i> 4 to sub-section (1), omit “other than the State of Jammu and Kashmir”.</p> <p>In section 7, omit sub-section (2).</p> <p>In section 14, in sub-section (2),—</p> <p>(i) omit the word “or” at the end of clause (b); and</p> <p>(ii) omit clause (c).</p> <p>In section 24, in sub-section (1),—</p> <p>(i) omit the first proviso; and</p> <p>(ii) in the second proviso, omit the word “further”,</p> <p>in sub-section (2), omit clause (a) of the proviso.</p> <p>In section 49A, in clause (a), omit the words “with the Government of the State of Jammu and Kashmir or” and for the words “in that State or in that country, as the case may be” substitute “in that country”.</p> <p>In section 49B, in sub-section (2), omit “other than the Government of Jammu and Kashmir”.</p> <p>In the proviso to section 60A, for the words and figures “after the 31st day of March, 1955”, substitute “in the case of merged territories and Part B States other than the State of Jammu and Kashmir, after the 31st day of March, 1955, and, in the case of the State of Jammu and Kashmir, after the 31st day of March, 1959”.</p> <p>In section 61, in sub-section (2), in clause (iv) (a), after the words “Jammu and Kashmir”, insert “or before the 14th day of May, 1954, in the State of Jammu and Kashmir”.</p>
1924	XIX	The Land Customs Act, 1924.	In section 1, omit “except the State of Jammu and Kashmir”.
1926	III	The Government Trading Taxation Act, 1926.	In section 2, in sub-section (3), omit “and ‘India’ means the territory of India excluding the State of Jammu and Kashmir”.

Year	No.	Short title	Amendments
I	2	3	4
1934	XXXIII	The Indian Tariff Act, 1934.	In section 1, in sub-section (2), omit "except the State of Jammu and Kashmir".
1944	I	The Central Excises and Salt Act, 1944.	In section 1, in sub-section (2), omit "except the State of Jammu and Kashmir". In section 2, omit clause (e). Omit section 5. In section 37, in clause (iii) of sub-section (2), omit "the bringing of excisable goods into India from the State of Jammu and Kashmir, or".
1949	XXII	The Payment of Taxes (Transfer of Property) Act, 1949.	In section 1, in sub-section (2), omit "except the State of Jammu and Kashmir". In section 2, for the words "the States", substitute "India", and omit the <i>Explanation</i> .
1953	34	The Estate Duty Act, 1953.	In section 1, in sub-section (2), omit "except the State of Jammu and Kashmir". In section 50, omit "other than the State of Jammu and Kashmir".

THE ADMINISTRATION OF EVACUEE PROPERTY (AMENDMENT) Act, 1954

No 42 OF 1954

[8th October, 1954]

An Act to abrogate the evacuee property law in respect of persons who have done or do any act on or after the 7th day of May, 1954 which if done before that date would have rendered them subject to that law and to amend the Administration of Evacuee Property Act, 1950 for that purpose and certain other purposes.

BE it enacted by Parliament in the Fifth Year of the Republic of India as follows:—

1. **Short title.**—This Act may be called the Administration of Evacuee Property (Amendment) Act, 1954.

2. **Amendment of section 4, Act XXXI of 1950.**—Section 4 of the Administration of Evacuee Property Act, 1950 (hereinafter referred

to as the principal Act) shall be renumbered as sub-section (1) thereof, and after the sub-section as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) For the removal of doubts, it is hereby declared that nothing in any other law controlling the rents of, or evictions from, any property shall apply, or be deemed ever to have applied, to evacuee property.”

3. Amendment of section 7, Act XXXI of 1950.—In section 7 of the principal Act, after sub-section (1), the following sub-section shall be inserted and shall be deemed always to have been inserted, namely:—

“(1A) Where during the pendency of any proceeding under sub-section (1) for declaring any property to be evacuee property any person interested in the property dies, the proceeding shall, unless the Custodian otherwise directs, be continued and disposed of as if such person were alive.”

4. Insertion of new section 7A in Act XXXI of 1950.—After section 7 of the principal Act, the following section shall be inserted, namely:—

“7A. *Property not to be declared evacuee property on or after 7th May, 1954.*—Notwithstanding anything contained in this Act, no property shall be declared to be evacuee property on or after the 7th day of May, 1954:

Provided that nothing contained in this section shall apply to—

(a) any property in respect of which proceedings are pending on the 7th day of May, 1954 for declaring such property to be evacuee property; and

(b) the property of any person who, on account of the setting up of the Dominions of India and Pakistan or on account of civil disturbances or the fear of such disturbances had left on or after the 1st day of March, 1947, any place now forming part of India, and who on the 7th day of May, 1954, was resident in Pakistan:

Provided further that no notice under section 7 for declaring any property to be evacuee property with reference to clause (b) of the preceding proviso shall be issued after the expiry of six months from the commencement of the Administration of Evacuee Property (Amendment) Act, 1954.

Explanation I.—A person shall be deemed to have been resident in Pakistan on the 7th day of May, 1954, within the meaning of clause (b) of the first proviso, if he was ordinarily residing in Pakistan before that date, notwithstanding that he was temporarily absent from Pakistan on that date.

Explanation II.—A person who had left India for Pakistan before the 7th day of May, 1954, on the authority of a passport or any other valid travel document issued by any competent authority in India, and who was temporarily residing in Pakistan on that date, shall not be deemed to have been resident in Pakistan on that date within the meaning of clause (b) of the first proviso.

Explanation III.—A person who had left Pakistan for India on or after the 18th day of July, 1948, and who was in India on the 7th day of May, 1954, shall, unless he came to India under a valid permit for permanent return or for permanent resettlement, issued under the Influx from Pakistan (Control) Act, 1949 (XXIII of 1949), be deemed to have been resident in Pakistan on the 7th day of May, 1954, within the meaning of clause (b) of the first proviso."

5. Amendment of section 12, Act XXXI of 1950.—In section 12 of the principal Act, in sub-section (1),—

(a) in clause (b) of the proviso, the word 'or' shall be added at the end and after that clause, the following clause shall be inserted, namely:—

"(c) has failed to pay rent in accordance with the terms of the lease.";

(b) after the proviso as so amended, the following *Explanation* shall be inserted and shall be deemed always to have been inserted, namely:—

"Explanation.—In this sub-section, 'lease' includes a lease granted by the Custodian and 'agreement' includes an agreement entered into by the Custodian."

6. Amendment of section 16, Act XXXI of 1950.—In section 16 of the principal Act,—

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) No application made under sub-section (1) shall be entertained unless—

(a) before making the application, the applicant has filed all appeals and revision applications permissible under this Act against the order declaring the property of the evacuee to be evacuee property and the Custodian General has made a final order in the case; and

(b) the application is made within sixty days of the final order of the Custodian General:

Provided that any such application by an evacuee who migrated to West Pakistan from the State of Uttar Pradesh during the period between the 1st day of February, 1950 and the 31st day of May, 1950 and who is permitted to return to India for permanent re-settlement may be entertained if it is made within sixty days of the return of the evacuee to India:

Provided further that nothing contained in this sub-section shall apply to an application under sub-section (1) which is pending on the commencement of the Administration of Evacuee Property (Amendment) Act, 1954.

Explanation.—In this sub-section, the expression 'Custodian General' shall include a Deputy Custodian General and an Assistant Custodian General."

(b) to sub-section (3), the following *Explanation* shall be added at the end, namely:—

“Explanation.—For the purpose of the proviso to this sub-section, an allotment shall be deemed to be a lease and shall have effect against the person to whom restoration is made to the same extent and in the same manner as if it were a lease.”

7. Amendment of section 27, Act XXXI of 1950.—In section 27 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) The Custodian General, a Deputy Custodian General or an Assistant Custodian General may after giving notice to the parties concerned review his own order.”

8. Amendment of section 40, Act XXXI of 1950.—In section 40 of the principal Act, in sub-section (1), after the words and figures ‘14th day of August, 1947’, the words and figures ‘but before the 7th day of May, 1954’ shall be inserted.

9. Amendment of section 48, Act XXXI of 1950.—Section 48 of the principal Act shall be renumbered as sub-section (1) thereof and after the sub-section as so renumbered, the following sub-section shall be inserted, namely:—

“(2) For the purpose of sub-section (1), the decision of the Custodian as to the sum due to the State Government or to the Custodian shall be final.”

10. Retrospective operation of certain amendments.—The amendments made in the principal Act by section 4 and section 8 of this Act shall be deemed to have come into force on the 7th day of May, 1954.

K. Y. BHANDARKAR,
Secy. to the Govt. of India.